

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE  
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.**

**FILED BY CLERK**

**JULY -8 2009**

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2009-0045-PR
	)	DEPARTMENT B
v.	)	
	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
RUBEN BEN BADILLA,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
	)	

---

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20043169

Honorable Howard Fell, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

---

Barbara LaWall, Pima County Attorney  
By Jacob R. Lines

Tucson  
Attorneys for Respondent

Barton & Storts, P.C.  
By Brick P. Storts, III

Tucson  
Attorneys for Petitioner

---

B R A M M E R, Judge.

¶1 Following a jury trial, Ruben Ben Badilla was convicted of first-degree felony murder and sentenced to spend his natural life in prison. This court affirmed his conviction and sentence on appeal. *State v. Badilla*, No. 2 CA-CR 2005-0369 (memorandum decision filed Feb. 13, 2007). Badilla now challenges the trial court’s summary denial of his subsequent petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. “A petition for post-conviction relief is addressed to the sound discretion of the trial court[,] and the decision of the court will not be reversed unless an abuse of discretion affirmatively appears.” *State v. Schrock*, 149 Ariz. 433, 441, 719 P.2d 1049, 1057 (1986).

¶2 As he did below, Badilla raises numerous claims of ineffective assistance of trial counsel. The same judge who had presided over his trial found Badilla had failed to present a colorable claim that counsel had performed deficiently in representing him or that counsel’s actions or inactions had caused Badilla prejudice. The court summarily dismissed Badilla’s petition.

¶3 Summary disposition of claims for post-conviction relief is appropriate when a defendant presents no “material issue of fact or law which would entitle the defendant to relief” and “no purpose would be served by any further proceedings.” Ariz. R. Crim. P. 32.6(c). A colorable claim of ineffective assistance of counsel is “one that, if the allegations are true, might have changed the outcome” of the case. *State v. Runningeagle*, 176 Ariz. 59, 63, 859 P.2d 169, 173 (1993). “To state a colorable claim of ineffective assistance of counsel, a defendant must show both that counsel’s performance fell below objectively

reasonable standards and that this deficiency prejudiced the defendant.” *State v. Bennett*, 213 Ariz. 562, ¶ 21, 146 P.3d 63, 68 (2006), *citing Strickland v. Washington*, 466 U.S. 668, 687 (1984). “Failure to satisfy either prong of the *Strickland* test is fatal to an ineffective assistance of counsel claim.” *Id.* A “strong presumption exists” that counsel provided effective assistance, and a defendant has the burden of overcoming that presumption. *Id.* ¶ 22.

¶4 Here, the trial court addressed each of Badilla’s claims of ineffectiveness in a thorough, well-reasoned decision. Because the court ruled correctly on Badilla’s claims, we see no purpose in rehashing the court’s order denying relief, and we adopt its ruling. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶5 Although we accept review, we deny relief.

---

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

---

GARYE L. VÁSQUEZ, Judge

---

JOSEPH W. HOWARD, Chief Judge